

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

E3 BIOFUELS, LLC,)
Plaintiff,) 8:11CV44
V.)
BIOTHANE, LLC, successor in) ORDER
interest and liability to, PERENNIAL)
ENERGY, INC., MARVIN)
ENTERPRISES, INC. F/K/A,)
AMERICAN BOILER COMPANY,)
and KATZEN INTERNATIONAL,)
INC.,)
Defendants.

The deadline for completing written discovery in this case was July 30, 2013. However, on July 26, 2013, the parties filed a stipulated motion ([filing 280](#)) to extend the written discovery deadline for the limited purpose of completing the search and production of Katzen International, Inc.’s (“Katzen”) records. In the stipulated motion, Defendant Perennial Energy, Inc. (“PEI”) informed the Court that it had been working with a third-party vendor to search and produce Katzen’s records. PEI stated that the third-party vendor was scheduled to begin its search on July 29, 2013, and that the search was expected to last four days. Thereafter, retrieved documents would be reviewed by Katzen to evaluate whether they were relevant or privileged. PEI informed the Court that it expected the entire process to be complete within thirty days. Accordingly, on July 29, 2013, the undersigned issued an order ([filing 282](#)) granting the stipulated motion and extending the written discovery deadline to August 30, 2013.

On August 30, 2013, PEI filed another motion, this time requesting that the written discovery deadline be extended until September 30, 2013, again for the purpose of completing the search of Katzen's records. ([Filing 306](#).) In support of this motion, PEI informed the Court that the third-party vendor's search had taken longer than expected and that PEI is working with the vendor to further narrow the search terms. PEI also stated that

the third-party vendor is in the process of placing the data into an appropriate format so that it can be reviewed by Katzen. Again, PEI expects that this process can be completed in thirty days, or by September 30.

Plaintiff objects to an additional extension of the written discovery deadline, pointing out that several deadlines in the Amended Progression Order fall within the thirty day period of time sought by PEI and that PEI's requested extension would push the deadline for written discovery after Plaintiff's deadline to identify experts. Plaintiff further asserts that an additional extension would be futile because a review of Katzen's records could not be accomplished by September 30, 2013, given the voluminous amount of records that PEI has requested.

The Court will deny PEI's request for an additional thirty days to complete written discovery. PEI's requested extension would necessitate modification of other deadlines set in the Progression Order. Moreover, the Court is extremely skeptical that the search and review of Katzen's records can even be accomplished by September 30, 2013.

IT IS ORDERED that PEI's Motion to Extend the Deadline for Completing Written Discovery for the Limited Purpose of Completing a Scheduled Search of Katzen's Records ([filing 306](#)) is denied.

DATED September 5, 2013.

BY THE COURT:

S/ F.A. Gossett
United States Magistrate Judge